

APPEAL NO. 041326
FILED JULY 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 27, 2004. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first quarter. The claimant appealed, disputing the determination of nonentitlement. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that she did not commute her impairment income benefits; that the qualifying period for the first quarter ran from November 14, 2003, to February 12, 2004; and that the first quarter ran from February 26 to May 26, 2004. The parties did not stipulate to the impairment rating (IR) but the hearing officer found that the claimant's IR is 22% and that finding was not appealed. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by showing that she had a total inability to work during the qualifying period for the first quarter. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement of Rule 130.102(d)(4) by demonstrating that she had no ability to work in the relevant qualifying period. The hearing officer was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Rule 130.102(d)(4). Specifically, the hearing officer determined that there was not a narrative that specifically explained how the claimant's injury caused a total inability to work. Nothing in our review of the record reveals that the hearing officer's determinations in that regard are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing officer's good faith determination, or the determination that the claimant is not entitled to SIBs for the first quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Reliance National Indemnity Company**, an **impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge